

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 229

Introduced by Howard, 9

Read first time January 7, 2005

Committee: Education

A BILL

1 FOR AN ACT relating to education; to amend sections 79-528 and
2 79-1003, Reissue Revised Statutes of Nebraska; to change
3 fall membership reporting requirements; to define and
4 redefine terms; to harmonize provisions; and to repeal
5 the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-528, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 79-528. (1) (a) On or before July 20 in all school
4 districts, the superintendent or head administrator shall file with
5 the State Department of Education a report under oath showing the
6 number of children from five through eighteen years of age
7 belonging to the school district according to the census taken as
8 provided in sections 79-524 and 79-578. The report shall identify
9 the number of boys and the number of girls in each of the
10 respective age categories.

11 (b) Each Class I school district which is part of a Class
12 VI school district offering instruction (i) in grades kindergarten
13 through five shall report children from five through ten years of
14 age, (ii) in grades kindergarten through six shall report children
15 from five through eleven years of age, and (iii) in grades
16 kindergarten through eight shall report children from five through
17 thirteen years of age.

18 (c) Each Class VI school district offering instruction
19 (i) in grades six through twelve shall report children who are
20 eleven through eighteen years of age, (ii) in grades seven through
21 twelve shall report children who are twelve through eighteen years
22 of age, and (iii) in grades nine through twelve children who are
23 fourteen through eighteen years of age.

24 (d) Each Class I district which has affiliated in whole
25 or in part shall report children from five through thirteen years
26 of age.

27 (e) Each Class II, III, IV, or V district shall report
28 children who are fourteen through eighteen years of age residing in

1 Class I districts or portions thereof which have affiliated with
2 such district.

3 (f) The board of any district neglecting to take and
4 report the enumeration shall be liable to the school district for
5 all school money which such district may lose by such neglect.

6 (2) On or before June 30 the superintendent or head
7 administrator of each school district shall file with the
8 Commissioner of Education a report under oath described as an
9 end-of-the-school-year annual statistical summary showing (a) the
10 number of children attending school during the year under five
11 years of age, (b) the length of time the school has been taught
12 during the year by a qualified teacher, (c) the length of time
13 taught by each substitute teacher, and (d) such other information
14 as the Commissioner of Education directs.

15 (3) On or before November 1 the superintendent or head
16 administrator of each school district shall submit to the
17 Commissioner of Education, to be filed in his or her office, a
18 report under oath described as the annual financial report showing
19 (a) the amount of money received from all sources during the year
20 and the amount of money expended by the school district during the
21 year, (b) the amount of bonded indebtedness, (c) such other
22 information as shall be necessary to fulfill the requirements of
23 the Tax Equity and Educational Opportunities Support Act and
24 section 79-1114, and (d) such other information as the Commissioner
25 of Education directs.

26 (4) On or before October 15 of each year, the
27 superintendent or head administrator of each school district shall
28 deliver to the department the fall school district membership

1 report, which report shall include the number of children from
2 birth through twenty years of age enrolled in the district on the
3 last Friday in September of a given school year. The report shall
4 enumerate (a) students by grade level, (b) school district levies
5 and total assessed valuation for the current fiscal year, ~~and~~ (c)
6 the number of such children who are free lunch and free milk
7 students or poverty students as defined in section 79-1003, (d) the
8 number of children who are limited English proficiency students as
9 defined in such section, and (e) such other information as the
10 Commissioner of Education directs. When any school district fails
11 to submit its fall school district membership report by November 1,
12 the commissioner shall, after notice to the district and an
13 opportunity to be heard, direct that any state aid granted pursuant
14 to the Tax Equity and Educational Opportunities Support Act be
15 withheld until such time as the report is received by the
16 department. In addition, the commissioner shall direct the county
17 treasurer to withhold all school money belonging to the school
18 district until such time as the commissioner notifies the county
19 treasurer of receipt of such report. The county treasurer shall
20 withhold such money.

21 Sec. 2. Section 79-1003, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 79-1003. For purposes of the Tax Equity and Educational
24 Opportunities Support Act:

25 (1) Adjusted general fund operating expenditures means
26 general fund operating expenditures as calculated pursuant to
27 subdivision (23) of this section minus the transportation allowance
28 and minus the special receipts allowance;

1 (2) Adjusted valuation means the assessed valuation of
2 taxable property of each local system in the state, adjusted
3 pursuant to the adjustment factors described in section 79-1016.
4 Adjusted valuation means the adjusted valuation for the property
5 tax year ending during the school fiscal year immediately preceding
6 the school fiscal year in which the aid based upon that value is to
7 be paid. For purposes of determining the local effort rate yield
8 pursuant to section 79-1015.01, adjusted valuation does not include
9 the value of any property which a court, by a final judgment from
10 which no appeal is taken, has declared to be nontaxable or exempt
11 from taxation;

12 (3) Allocated income tax funds means the amount of
13 assistance paid to a local system pursuant to section 79-1005.01 or
14 79-1005.02 as adjusted by the minimum levy adjustment pursuant to
15 section 79-1008.02;

16 (4) Average daily attendance of a student who resides on
17 Indian land means average daily attendance of a student who resides
18 on Indian land from the most recent data available on November 1
19 preceding the school fiscal year in which aid is to be paid;

20 (5) Average daily membership means the average daily
21 membership for grades kindergarten through twelve attributable to
22 the local system, as provided in each district's annual statistical
23 summary, and includes the proportionate share of students enrolled
24 in a public school instructional program on less than a full-time
25 basis;

26 (6) Base fiscal year means the first school fiscal year
27 following the school fiscal year in which the reorganization or
28 unification occurred;

1 (7) Board means the school board of each school district;

2 (8) Categorical funds means funds limited to a specific
3 purpose by federal or state law, including, but not limited to,
4 Title I funds, Title VI funds, federal vocational education funds,
5 federal school lunch funds, Indian education funds, Head Start
6 funds, funds from the Education Innovation Fund, and funds from the
7 School Technology Fund;

8 (9) Consolidate means to voluntarily reduce the number of
9 school districts providing education to a grade group and does not
10 include dissolution pursuant to section 79-498;

11 (10) Converted contract means an expired contract that
12 was in effect for at least fifteen years for the education of
13 students in a nonresident district in exchange for tuition from the
14 resident district when the expiration of such contract results in
15 the nonresident district educating students who would have been
16 covered by the contract if the contract were still in effect as
17 option students pursuant to the enrollment option program
18 established in section 79-234;

19 (11) Converted contract option students means students
20 who will be option students pursuant to the enrollment option
21 program established in section 79-234 for the school fiscal year
22 for which aid is being calculated and who would have been covered
23 by a converted contract if the contract were still in effect and
24 such school fiscal year is the first school fiscal year for which
25 such contract is not in effect;

26 (12) Department means the State Department of Education;

27 (13) District means any Class I, II, III, IV, V, or VI
28 school district;

1 (14) Ensuing school fiscal year means the school fiscal
2 year following the current school fiscal year;

3 (15) Equalization aid means the amount of assistance
4 calculated to be paid to a local system pursuant to sections
5 79-1008.01 to 79-1022 and 79-1022.02;

6 (16) Fall membership means the total membership in
7 kindergarten through grade twelve attributable to the local system
8 as reported on the fall school district membership reports for each
9 district pursuant to section 79-528;

10 (17) Fiscal year means the state fiscal year which is the
11 period from July 1 to the following June 30;

12 (18) Formula students means (a) for state aid certified
13 pursuant to section 79-1022, the sum of fall membership from the
14 school fiscal year immediately preceding the school fiscal year in
15 which the aid is to be paid, multiplied by the average ratio of
16 average daily membership to fall membership for the second school
17 fiscal year immediately preceding the school fiscal year in which
18 aid is to be paid and the prior two school fiscal years, and
19 tuitioned students from the school fiscal year immediately
20 preceding the school fiscal year in which the aid is to be paid and
21 (b) for final calculation of state aid pursuant to section 79-1065,
22 the sum of average daily membership and tuitioned students from the
23 school fiscal year immediately preceding the school fiscal year in
24 which the aid was paid;

25 (19) Free lunch and free milk student means a student who
26 qualified for free lunches or free milk ~~from the most recent data~~
27 ~~available on November 1~~ as reported in the fall membership of the
28 school fiscal year immediately preceding the school fiscal year in

1 which aid is to be paid;

2 (20) Full-day kindergarten means kindergarten offered by
3 a district for at least one thousand thirty-two instructional
4 hours;

5 (21) General fund budget of expenditures means the total
6 budget of disbursements and transfers for general fund purposes as
7 certified in the budget statement adopted pursuant to the Nebraska
8 Budget Act, except that for purposes of the limitation imposed in
9 section 79-1023, the calculation of Class I total allowable general
10 fund budget of expenditures minus the special education budget of
11 expenditures pursuant to section 79-1083.03, and the calculation
12 pursuant to subdivision (2) of section 79-1027.01, the general fund
13 budget of expenditures does not include any special grant funds,
14 exclusive of local matching funds, received by a district subject
15 to the approval of the department;

16 (22) General fund expenditures means all expenditures
17 from the general fund;

18 (23) General fund operating expenditures means the total
19 general fund expenditures minus categorical funds, tuition paid,
20 transportation fees paid to other districts, adult education,
21 summer school, community services, redemption of the principal
22 portion of general fund debt service, retirement incentive plans,
23 staff development assistance, and transfers from other funds into
24 the general fund for the second school fiscal year immediately
25 preceding the school fiscal year in which aid is to be paid;

26 (24) High school district means a school district
27 providing instruction in at least grades nine through twelve;

28 (25) Income tax liability means the amount of the

1 reported income tax liability for resident individuals pursuant to
2 the Nebraska Revenue Act of 1967 less all nonrefundable credits
3 earned and refunds made;

4 (26) Income tax receipts means the amount of income tax
5 collected pursuant to the Nebraska Revenue Act of 1967 less all
6 nonrefundable credits earned and refunds made;

7 (27) Limited English proficiency student means a student
8 with limited English proficiency ~~from the most recent data~~
9 ~~available on November 1~~ as reported in the fall membership of the
10 school fiscal year preceding the school fiscal year in which aid is
11 to be paid;

12 (28) Local system means a Class VI district and the
13 associated Class I districts or a Class II, III, IV, or V district
14 and any affiliated Class I districts or portions of Class I
15 districts. The membership, expenditures, and resources of Class I
16 districts that are affiliated with multiple high school districts
17 will be attributed to local systems based on the percent of the
18 Class I valuation that is affiliated with each high school
19 district;

20 (29) Low-income child means a child under nineteen years
21 of age living in a household having an annual adjusted gross income
22 of fifteen thousand dollars or less for the second calendar year
23 preceding the beginning of the school fiscal year for which aid is
24 being calculated;

25 (30) Most recently available complete data year means the
26 most recent single school fiscal year for which the annual
27 financial report, fall school district membership report, annual
28 statistical summary, Nebraska income tax liability by school

1 district for the calendar year in which the majority of the school
2 fiscal year falls, and adjusted valuation data are available;

3 (31) Poverty students means the number of low-income
4 children or the number of students who are free lunch and free milk
5 students in a local system, whichever is greater;

6 (32) Regular route transportation means the
7 transportation of students on regularly scheduled daily routes to
8 and from the attendance center;

9 ~~(32)~~ (33) Reorganized district means any district
10 involved in a consolidation and currently educating students
11 following consolidation;

12 ~~(33)~~ (34) School year or school fiscal year means the
13 fiscal year of a school district as defined in section 79-1091;

14 ~~(34)~~ (35) Special education means specially designed
15 kindergarten through grade twelve instruction pursuant to section
16 79-1125, and includes special education transportation;

17 ~~(35)~~ (36) Special grant funds means the budgeted receipts
18 for grants, including, but not limited to, Title I funds, Title VI
19 funds, funds from the Education Innovation Fund, reimbursements for
20 wards of the court, short-term borrowings including, but not
21 limited to, registered warrants and tax anticipation notes,
22 interfund loans, insurance settlements, and reimbursements to
23 county government for previous overpayment. The state board shall
24 approve a listing of grants that qualify as special grant funds;

25 ~~(36)~~ (37) Special receipts allowance means the amount of
26 special education, state ward, and accelerated or differentiated
27 curriculum program receipts included in local system formula
28 resources under subdivisions (7), (8), (16), and (17) of section

1 79-1018.01;

2 ~~(37)~~ (38) State aid means the amount of assistance paid
3 to a district pursuant to the Tax Equity and Educational
4 Opportunities Support Act;

5 ~~(38)~~ (39) State board means the State Board of Education;

6 ~~(39)~~ (40) State support means all funds provided to
7 districts by the State of Nebraska for the general fund support of
8 elementary and secondary education;

9 ~~(40)~~ (41) Temporary aid adjustment factor means one and
10 one-fourth percent of the sum of the local system's transportation
11 allowance, the local system's special receipts allowance, and the
12 product of the local system's adjusted formula students multiplied
13 by the average formula cost per student in the local system's cost
14 grouping;

15 ~~(41)~~ (42) Transportation allowance means the lesser of
16 (a) each local system's general fund expenditures for regular route
17 transportation and in lieu of transportation expenditures pursuant
18 to section 79-611 in the second school fiscal year immediately
19 preceding the school fiscal year in which aid is to be paid, but
20 not including special education transportation expenditures or
21 other expenditures previously excluded from general fund operating
22 expenditures, or (b) the number of miles traveled in the second
23 school fiscal year immediately preceding the school fiscal year in
24 which aid is to be paid by vehicles owned, leased, or contracted by
25 the district or the districts in the local system for the purpose
26 of regular route transportation multiplied by four hundred percent
27 of the mileage rate established by the Department of Administrative
28 Services pursuant to section 81-1176 as of January 1 of the most

1 recently available complete data year added to in lieu of
2 transportation expenditures pursuant to section 79-611 from the
3 same data year;

4 ~~(42)~~ (43) Tuition receipts from converted contracts means
5 tuition receipts received by a district from another district in
6 the most recently available complete data year pursuant to a
7 converted contract prior to the expiration of the contract; and

8 ~~(43)~~ (44) Tuitioned students means students in
9 kindergarten through grade twelve of the district whose tuition is
10 paid by the district to some other district or education agency.

11 Sec. 3. Original sections 79-528 and 79-1003, Reissue
12 Revised Statutes of Nebraska, are repealed.